

- (3) Section 77.034, Parks and Wildlife Code; and
(4) Subchapter D, Chapter 81, Parks and Wildlife Code.

ARTICLE 6

Section 1. This Act takes effect on September 1, 1979.

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 10, 1979, by a viva-voce vote; passed the

House on May 12, 1979: Yeas 132, Nays 5, one present not voting.

Approved May 24, 1979.

Effective Sept. 1, 1979.

RED RIVER COMPACT—RATIFICATION AND
IMPLEMENTATION

CHAPTER 261

S. B. No. 581

An Act relating to the ratification and implementation of the Red River Compact; amending Title 3, Water Code, as amended, by adding Chapter 46.

Be it enacted by the Legislature of the State of Texas:

Section 1. Title 3, Water Code, as amended, is amended by adding¹⁵ Chapter 46 to read as follows:

“CHAPTER 46. RED RIVER COMPACT

“Section 46.001. Ratification

“The Red River Compact, the text of which is set out in Section 46.013 of this code, is ratified and confirmed in all respects after having been signed at Denison Dam, on the Texas-Oklahoma border, on May 12, 1978, by John P. Saxton, commissioner for the State of Arkansas, Orville B. Saunders, commissioner for the State of Oklahoma, Arthur R. Theis, commissioner for the State of Louisiana, and Fred Parkey, commissioner for the State of Texas, and approved by R. C. Marshall, representative of the United States.

“Sec. 46.002. Original Copy

“An original copy of the compact is on file in the office of the secretary of state.

“Sec. 46.003. Commissioner

“The governor, with the advice and consent of the senate, shall appoint a commissioner to represent this state on the commission established by Article IX of the compact.

¹⁵ V.T.C.A. Water Code, §§ 46.001 to 46.013.

"Sec. 46.004. Term of Office

"The appointed commissioner holds office for a term of two years and until his or her successor is appointed and qualified.

"Sec. 46.005. Oath

"The appointed commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his or her duties as commissioner.

"Sec. 46.006. Compensation; Expenses

"(a) The appointed commissioner is entitled to receive as compensation \$15,600 a year until otherwise provided by legislative appropriation and is entitled to reimbursement for actual and necessary expenses while traveling in the discharge of official duties.

"(b) The appointed commissioner is not covered by Chapter 352, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 6228a, Vernon's Texas Civil Statutes).

"Sec. 46.007. Powers and Duties

"The appointed commissioner is responsible for administering the provisions of the compact and has all the powers and duties prescribed by the compact.

"Sec. 46.008. Executive Director

"(a) The executive director of the Texas Department of Water Resources or a designated representative selected from the staff of the department shall also serve as a commissioner and represent this state on the commission established by Article IX of the compact.

"(b) The executive director or the designated representative may exercise the powers and shall discharge the duties provided by the compact.

"(c) The executive director or the designated representative is not entitled to additional compensation for performing the duties under the compact but is entitled to reimbursement for actual and necessary expenses incurred while traveling in the discharge of official duties.

"Sec. 46.009. Employees; Administrative Expenses

"The commissioners, in conjunction with other members of the commission and as authorized by the legislature, may employ engineering and clerical personnel and may incur necessary office expenses for the appointed commissioner and other expenses incident to the proper performance of their duties and the proper administration of the compact. However, the commissioner shall not incur any financial obligation on behalf of this state until the legislature has authorized and appropriated money for the obligation.

"Sec. 46.010. Cooperation of Texas Department of Water Resources

"The Texas Department of Water Resources shall cooperate with the commissioners in the performance of their duties and shall furnish them any factual data and information that are available.

"Sec. 46.011. Notification of Other Parties; Copies

"The governor shall notify the Governor of Arkansas, the Governor of Louisiana, the Governor of Oklahoma, and the President of the United States of the ratification of the compact by this state. On request of the governor, the secretary of state shall furnish to each of these other governors and the president a certified copy of the Act adopting this chapter of the code.

"Sec. 46.012. Time When Compact Binding

"The compact is binding and obligatory when it is ratified by the legislatures of Arkansas, Louisiana, and Oklahoma and consented to by the United States under Article XIII of the compact.

"Sec. 46.013. Text of Compact

"The Red River Compact reads as follows:

'PREAMBLE

'The States of Arkansas, Louisiana, Oklahoma, and Texas, pursuant to the acts of their respective Governors or legislatures, or both, being moved by considerations of interstate comity, have resolved to compact with respect to the water of the Red River and its tributaries. By Act of Congress, Public Law No. 346 (84th Congress, First Session), the consent of the United States has been granted for said states to negotiate and enter into a compact providing for an equitable apportionment of such water; and pursuant to that Act the President has designated the representative of the United States.

'Further, the consent of Congress has been given for two or more states to negotiate and enter into agreements relating to water pollution control by the provisions of the Federal Water Pollution Control Act (P.L. 92-500, 33 U.S.C. Subsection 1251 et seq.).

'The Signatory States acting through their duly authorized Compact Commissioners, after several years of negotiations, have agreed to an equitable apportionment of the water of the Red River and its tributaries and do hereby submit and recommend that this compact be adopted by the respective legislatures and approved by Congress as hereinafter set forth:

'ARTICLE I**'PURPOSES**

'Sec. 1.01. The principal purposes of this Compact are:

- '(a) To promote interstate comity and remove causes of controversy between each of the affected states by governing the use, control and distribution of the interstate water of the Red River and its tributaries;
- '(b) To provide an equitable apportionment among the Signatory States of the water of the Red River and its tributaries;
- '(c) To promote an active program for the control and alleviation of natural deterioration and pollution of the water of the Red River Basin and to provide for enforcement of the laws related thereto;
- '(d) To provide the means for an active program for the conservation of water, protection of lives and property from floods, improvement of water quality, development of navigation and regulation of flows in the Red River Basin; and
- '(e) To provide a basis for state or joint state planning and action by ascertaining and identifying each state's share in the interstate water of the Red River Basin and the apportionment thereof.

ARTICLE II

GENERAL PROVISIONS

'Sec. 2.01. Each Signatory State may use the water allocated to it by this Compact in any manner deemed beneficial by that state. Each state may freely administer water rights and uses in accordance with the laws of that state, but such uses shall be subject to the availability of water in accordance with the apportionments made by this Compact.

'Sec. 2.02. The use of water by the United States in connection with any individual Federal project shall be in accordance with the Act of Congress authorizing the project and the water shall be charged to the state or states receiving the benefit therefrom.

'Sec. 2.03. Any Signatory State using the channel of Red River or its tributaries to convey stored water shall be subject to an appropriate reduction in the amount which may be withdrawn at the point of removal to account for transmission losses.

'Sec. 2.04. The failure of any state to use any portion of the water allocated to it shall not constitute relinquishment or forfeiture of the right to such use.

'Sec. 2.05. Each Signatory State shall have the right to:

- '(a) Construct conservation storage capacity for the impoundment of water allocated by this Compact;
- '(b) Replace within the same area any storage capacity recognized or authorized by this Compact made unusable by any cause, including losses due to sediment storage;
- '(c) Construct reservoir storage capacity for the purposes of flood and sediment control as well as storage of water which is either imported or is to be exported if such storage does not adversely affect the delivery of water apportioned to any other Signatory State; and
- '(d) Use the bed and banks of the Red River and its tributaries to convey stored water, imported or exported water, and water apportioned according to this Compact.

'Sec. 2.06. Signatory States may cooperate to obtain construction of facilities of joint benefits to such states.

'Sec. 2.07. Nothing in this Compact shall be deemed to impair or affect the powers, rights, or obligations of the United States, or those claiming under its authority, in, over and on water of the Red River Basin.

'Sec. 2.08. Nothing in this Compact shall be construed to include within the water apportioned by this Compact any water consumed in each state by livestock or for domestic purposes; provided, however, the storage of such water is in accordance with the laws of the respective states but any such impoundment shall not exceed 200 acre-feet, or such smaller quantity as may be provided for by the laws of each state.

'Sec. 2.09. In the event any state shall import water into the Red River Basin from any other river basin, the Signatory State making the importation shall have the use of such imported water.

'Sec. 2.10. Nothing in this Compact shall be deemed to:

- '(a) Interfere with or impair the right or power of any Signatory State to regulate within its boundaries the appropriation, use, and control of water, or quality of water, not inconsistent with its obligations under this Compact;
- '(b) Repeal or prevent the enactment of any legislation or the enforcement of any requirement by any Signatory State imposing

any additional conditions or restrictions to further lessen or prevent the pollution or natural deterioration of water within its jurisdiction; provided nothing contained in this paragraph shall alter any provision of this Compact dealing with the apportionment of water or the rights thereto; or

- '(c) Waive any state's immunity under the Eleventh Amendment of the Constitution of the United States, or as constituting the consent of any state to be sued by its own citizens.

'Sec. 2.11. Accounting for apportionment purposes on interstate streams shall not be mandatory under the terms of the Compact until one or more affected states deem the accounting necessary.

'Sec. 2.12. For the purposes of apportionment of the water among the Signatory States, the Red River is hereby divided into the following major subdivisions:

- '(a) Reach I—the Red River and tributaries from the New Mexico-Texas State boundary to Denison Dam;
- '(b) Reach II—the Red River from Denison Dam to the point where it crosses the Arkansas-Louisiana state boundary and all tributaries which contribute to the flow of the River within this reach;
- '(c) Reach III—the tributaries west of the Red River which cross the Texas-Louisiana state boundary, the Arkansas-Louisiana state boundary, and those which cross both the Texas-Arkansas state boundary and the Arkansas-Louisiana state boundary.
- '(d) Reach IV—the tributaries east of the Red River in Arkansas which cross the Arkansas-Louisiana state boundary; and
- '(e) Reach V—that portion of the Red River and tributaries in Louisiana not included in Reach III or in Reach IV.

'Sec. 2.13. If any part or application of this Compact shall be declared invalid by a court of competent jurisdiction, all other severable provisions and applications of this Compact shall remain in full force and effect.

'Sec. 2.14. Subject to the availability of water in accordance with this Compact, nothing in this Compact shall be held or construed to alter, impair, or increase, validate, or prejudice any existing water right or right of water use that is legally recognized on the effective date of this Compact by either statutes or courts of the Signatory State within which it is located.

'ARTICLE III

'DEFINITIONS

'Sec. 3.01. In this Compact:

- '(a) The States of Arkansas, Louisiana, Oklahoma, and Texas are referred to as "Arkansas," "Louisiana," "Oklahoma," and "Texas," respectively, or individually as "State" or "Signatory State," or collectively as "States" or "Signatory States."
- '(b) The term "Red River" means the stream below the crossing of the Texas-Oklahoma state boundary at longitude 100 degrees west.
- '(c) The term "Red River Basin" means all of the natural drainage area of the Red River and its tributaries east of the New Mexico-Texas state boundary and above its junction with Atchafalaya and Old Rivers.

- '(d) The term "water of the Red River Basin" means the water originating in any part of the Red River Basin and flowing to or in the Red River or any of its tributaries.
- '(e) The term "tributary" means any stream which contributes to the flow of the Red River.
- '(f) The term "interstate tributary" means a tributary of the Red River, the drainage area of which includes portions of two or more Signatory States.
- '(g) The term "intrastate tributary" means a tributary of the Red River, the drainage area of which is entirely within a single Signatory State.
- '(h) The term "Commission" means the agency created by Article IX of this Compact for the administration thereof.
- '(i) The term "pollution" means the alteration of the physical, chemical, or biological characteristics of water by the acts or instrumentalities of man which create or are likely to result in a material and adverse effect upon human beings, domestic or wild animals, fish and other aquatic life, or adversely affect any other lawful use of such water; provided, that for the purposes of this Compact, "pollution" shall not mean or include "natural deterioration."
- '(j) The term "natural deterioration" means the material reduction in the quality of water resulting from the leaching of solubles from the soils and rocks through or over which the water flows naturally.
- '(k) The term "designated water" means water released from storage, paid for by non-Federal interests, for delivery to a specific point of use or diversion.
- '(l) The term "undesignated water" means all water released from storage other than "designated water."
- '(m) The term "conservation storage capacity" means that portion of the active capacity of reservoirs available for the storage of water for subsequent beneficial use, and it excludes any portion of the capacity of reservoirs allocated solely to flood control and sediment control, or either of them.
- '(n) The term "runoff" means both the portion of precipitation which runs off the surface of a drainage area and that portion of the precipitation that enters the streams after passing through the portions of the earth.

'ARTICLE IV

'APPORTIONMENT OF WATER—REACH I 'OKLAHOMA—TEXAS

'Subdivision of Reach I and apportionment of water therein. Reach I of the Red River is divided into topographical subbasins, with the water therein allocated as follows:

'Sec. 4.01. Subbasin 1—Interstate streams—Texas.

- '(a) This includes the Texas portion of Buck Creek, Sand (Lebos) Creek, Salt Fork Red River, Elm Creek, North Fork Red River, Sweetwater Creek, and Washita River, together with all their tributaries in Texas which lie west of the 100th Meridian.

- '(b) The annual flow within this subbasin is hereby apportioned sixty (60) percent to Texas and forty (40) percent to Oklahoma.
- 'Sec. 4.02. Subbasin 2—Intrastate and Interstate streams—Oklahoma.
 - '(a) This subbasin is composed of all tributaries of the Red River in Oklahoma and portions thereof upstream to the Texas-Oklahoma state boundary at longitude 100 degrees west, beginning from Denison Dam and upstream to and including Buck Creek.
 - '(b) The State of Oklahoma shall have free and unrestricted use of the water of this subbasin.
- 'Sec. 4.03. Subbasin 3—Intrastate streams—Texas.
 - '(a) This includes the tributaries of the Red River in Texas, beginning from Denison Dam and upstream to and including Prairie Dog Town Fork Red River.
 - '(b) The State of Texas shall have free and unrestricted use of the water in this subbasin.
- 'Sec. 4.04. Subbasin 4—Mainstem of the Red River and Lake Texoma.
 - '(a) This subbasin includes all of Lake Texoma and the Red River beginning at Denison Dam and continuing upstream to the Texas-Oklahoma state boundary at longitude 100 degrees west.
 - '(b) The storage of Lake Texoma and flow from the mainstem of the Red River into Lake Texoma is apportioned as follows:
 - '(1) Oklahoma 200,000 acre-feet and Texas 200,000 acre-feet, which quantities shall include existing allocations and uses; and
 - '(2) Additional quantities in a ratio of fifty (50) percent to Oklahoma and fifty (50) percent to Texas.
- 'Sec. 4.05. Special Provisions.
 - '(a) Texas and Oklahoma may construct, jointly or in cooperation with the United States, storage or other facilities for the conservation and use of water; provided that any facilities constructed on the Red River boundary between the two states shall not be inconsistent with the Federal legislation authorizing Denison Dam and Reservoir project.
 - '(b) Texas shall not accept for filing, or grant a permit, for the construction of a dam to impound water solely for irrigation, flood control, soil conservation, mining and recovery of minerals, hydroelectric power, navigation, recreation and pleasure, or for any other purpose other than for domestic, municipal, and industrial water supply, on the mainstem of the North Fork Red River or any of its tributaries within Texas above Lugert-Altus Reservoir until the date that imported water, sufficient to meet the municipal and irrigation needs of Western Oklahoma is provided, or until January 1, 2000, which ever occurs first.

'ARTICLE V

'APPORTIONMENT OF WATER—REACH II 'ARKANSAS, OKLAHOMA, TEXAS AND LOUISIANA

'Subdivision of Reach II and allocation of water therein. Reach II of the Red River is divided into topographic subbasins, and the water therein is allocated as follows:

- 'Sec. 5.01. Subbasin 1—Intrastate streams—Oklahoma.
 - '(a) This subbasin includes those streams and their tributaries above existing, authorized or proposed last downstream major damsites, wholly in Oklahoma and flowing into Red River below Denison Dam and above the Oklahoma-Arkansas state boundary. These

streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Island-Bayou	Albany	85,200	33°51.5'N	96°11.4'W
Blue River	Durant	147,000	33°55.5'N	96°04.2'W
Boggy River	Boswell	1,243,800	34°01.6'N	95°45.0'W
Kiamichi River	Hugo	240,700	34°01.0'N	95°22.6'W

'(b) Oklahoma is apportioned the water of this subbasin and shall have unrestricted use thereof.

'Sec. 5.02. Subbasin 2—Intrastate streams—Texas.

'(a) This subbasin includes those streams and their tributaries above existing authorized or proposed last downstream major damsites, wholly in Texas and flowing into Red River below Denison Dam and above the Texas-Arkansas state boundary. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Shawnee Creek	Randall Lake	5,400	33°48.1'N	96°34.8'W
Brushy Creek	Valley Lake	15,000	33°38.7'N	96°21.5'W
Bois d'Arc Creek	New Bonham Reservoir	130,600	33°42.9'N	95°58.2'W
Coffee Mill Creek	Coffee Mill Lake	8,000	33°44.1'N	95°58.0'W
Sandy Creek	Lake Crockett	3,900	33°44.5'N	95°55.5'W
Sanders Creek	Pat Mayse	124,500	33°51.2'N	95°32.9'W
Pine Creek	Lake Crook	11,011	33°43.7'N	95°34.0'W
Big Pine Creek	Big Pine Lake	138,600	33°52.0'N	95°11.7'W
Pecan Bayou	Pecan Bayou	625,000	33°41.1'N	94°58.7'W
Mud Creek	Liberty Hill	97,700	33°33.0'N	94°29.3'W
Mud Creek	KVW Ranch Lakes (3)	3,440	33°34.8'N	94°27.3'W

'(b) Texas is apportioned the water of this subbasin and shall have unrestricted use thereof.

'Sec. 5.03. Subbasin 3—Interstate Streams—Oklahoma and Arkansas.

'(a) This subbasin includes Little River and its tributaries above Millwood Dam.

'(b) The States of Oklahoma and Arkansas shall have free and unrestricted use of the water of this subbasin within their respective states, subject, however, to the limitation that Oklahoma shall allow a quantity of water equal to 40 percent of the total runoff originating below the following existing, authorized or proposed last downstream major damsites in Oklahoma to flow into Arkansas:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Little River	Pine Creek	70,500	34°06.8'N	95°04.9'W
Glover Creek	Lukfata	258,600	34°08.5'N	94°55.4'W
Mountain Fork River	Broken Bow	470,100	34°08.9'N	94°41.2'W

'(c) Accounting will be on an annual basis unless otherwise deemed necessary by the States of Arkansas and Oklahoma.

'Sec. 5.04. Subbasin 4—Interstate streams—Texas and Arkansas.

'(a) This subbasin shall consist of those streams and their tributaries above existing, authorized or proposed last downstream major damsites, originating in Texas and crossing the Texas-Arkansas state boundary before flowing into the Red River in Arkansas. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

<u>Stream</u>	<u>Site</u>	<u>Ac-ft</u>	<u>Location</u>	
			<u>Latitude</u>	<u>Longitude</u>
McKinney Bayou				
Trib.	Bringle Lake	3,052	33°30.6'N	94°06.2'W
Barkman Creek	Barkman Reservoir	15,900	33°29.7'N	94°10.3'W
Sulphur River	Texarkana	386,900	33°18.3'N	94°09.6'W

'(b) The State of Texas shall have the free and unrestricted use of the water of this subbasin.

'Sec. 5.05. Subbasin 5—Mainstem of the Red River and tributaries.

'(a) This subbasin includes that portion of the Red River, together with its tributaries, from Denison Dam down to the Arkansas-Louisiana state boundary, excluding all tributaries included in the other four subbasins of Reach II.

'(b) Water within this subbasin is allocated as follows:

'(1) The Signatory States shall have equal rights to the use of runoff originating in subbasin 5 and undesignated water flowing into subbasin 5, so long as the flow of the Red River at the Arkansas-Louisiana state boundary is 3,000 cubic feet per second or more, provided no state is entitled to more than 25 percent of the water in excess of 3,000 cubic feet per second.

'(2) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary is less than 3,000 cubic feet per second, but more than 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow to flow into the Red River for delivery to the State of Louisiana a quantity of water equal to 40 percent of the total weekly runoff originating in subbasin 5 and 40 percent of undesignated water flowing into subbasin 5; provided, however, that this requirement shall not be interpreted to require any state to release stored water.

'(3) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary falls below 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow a quantity of water equal to all the weekly runoff originating in subbasin 5 and all undesignated water flowing into subbasin 5 within their respective states to flow into the Red River as required to maintain a 1,000 cubic foot per second flow at the Arkansas-Louisiana state boundary.

'(c) Whenever the flow at Index, Arkansas, is less than 526 c.f.s., the states of Oklahoma and Texas shall each allow a quantity of water equal to 40 percent of the total weekly runoff originating

in subbasin 5 within their respective states to flow into the Red River; provided however, this provision shall be invoked only at the request of Arkansas, only after Arkansas has ceased all diversions from the Red River itself in Arkansas above Index, and only if the provisions of Sub-sections 5.05(b)(2) and (3) have not caused a limitation of diversions in subbasin 5.

'(d) No state guarantees to maintain a minimum low flow to a downstream state.

'Sec. 5.06. Special Provisions.

'(a) Reservoirs within the limits of Reach II, subbasin 5, with a conservation storage capacity of 1,000 acre feet or less in existence or authorized on the date of the Compact pursuant to the rights and privileges granted by a Signatory State authorizing such reservoirs, shall be exempt from the provisions of Section 5.05; provided, if any right to store water in, or use water from, an existing exempt reservoir expires or is cancelled after the effective date of the Compact the exemption for such rights provided by this section shall be lost.

'(b) A Signatory State may authorize a change in the purpose or place of use of water from a reservoir exempted by subparagraph (a) of this section without losing that exemption, if the quantity of authorized use and storage is not increased.

'(c) Additionally, exemptions from the provisions of Section 5.05 shall not apply to direct diversions from Red River to off-channel reservoirs or lands.

'ARTICLE VI

**'APPORTIONMENT OF WATER—REACH III
'ARKANSAS, LOUISIANA, AND TEXAS**

'Subdivision of Reach III and allocation of water therein. Reach III of the Red River is divided into topographic subbasins, and the water therein allocated, as follows:

'Sec. 6.01. Subbasin 1—Interstate streams—Arkansas and Texas.

'(a) This subbasin includes the Texas portion of those streams crossing the Arkansas-Texas state boundary one or more times and flowing through Arkansas into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

'(b) Texas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Arkansas is entitled to forty (40) percent of the runoff of this subbasin.

'Sec. 6.02. Subbasin 2—Interstate streams—Arkansas and Louisiana.

'(a) This subbasin includes the Arkansas portion of those streams flowing from Subbasin 1 into Arkansas, as well as other streams in Arkansas which cross the Arkansas-Louisiana state boundary one or more times and flow into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

'(b) Arkansas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Louisiana is entitled to forty (40) percent of the runoff of this subbasin.

'Sec. 6.03. Subbasin 3—Interstate streams—Texas and Louisiana.

'(a) This subbasin includes the Texas portion of all tributaries crossing the Texas-Louisiana state boundary one or more times and

flowing into Caddo Lake, Cypress Creek-Twelve Mile Bayou or Cross Lake, as well as the Louisiana portion of such tributaries.

'(b) Texas and Louisiana within their respective boundaries shall each have the unrestricted use of the water of this subbasin subject to the following allocation:

'(1) Texas shall have the unrestricted right to all water above Marshall, Lake O' the Pines, and Black Cypress damsites; however, Texas shall not cause runoff to be depleted to a quantity less than that which would have occurred with the full operation of Franklin County, Titus County, Ellison Creek, Johnson Creek, Lake O' the Pines, Marshall, and Black Cypress Reservoirs constructed, and those other impoundments and diversions existing on the effective date of this Compact. Any depletions of runoff in excess of the depletions described above shall be charged against Texas' apportionment of the water in Caddo Reservoir.

'(2) Texas and Louisiana shall each have the unrestricted right to use fifty (50) percent of the conservation storage capacity in the present Caddo Lake for the impoundment of water for state use, subject to the provision that supplies for existing uses of water from Caddo Lake, on date of Compact, are not reduced.

'(3) Texas and Louisiana shall each have the unrestricted right to fifty (50) percent of the conservation storage capacity of any future enlargement of Caddo Lake, provided, the two states may negotiate for the release of each state's share of the storage space on terms mutually agreed upon by the two states after the effective date of this Compact.

'(4) Inflow to Caddo Lake from its drainage area downstream from Marshall, Lake O' the Pines, and Black Cypress damsites and downstream from other last downstream dams in existence on the date of the signing of the Compact document by the Compact Commissioners, will be allowed to continue flowing into Caddo Lake except that any manmade depletions to this inflow by Texas will be subtracted from the Texas share of the water in Caddo Lake.

'(c) In regard to the water of interstate streams which do not contribute to the inflow to Cross Lake or Caddo Lake, Texas shall have the unrestricted right to divert and use this water on the basis of a division of runoff above the state boundary of sixty (60) percent to Texas and forty (40) percent to Louisiana.

'(d) Texas and Louisiana will not construct improvements on the Cross Lake watershed in either state that will affect the yield of Cross Lake; provided, however, this subsection shall be subject to the provisions of Section 2.08.

'Sec. 6.04. Subbasin 4—Intrastate streams—Louisiana.

'(a) This subbasin includes that area of Louisiana in Reach III not included within any other subbasin.

'(b) Louisiana shall have free and unrestricted use of the water of this subbasin.

ARTICLE VII

APPORTIONMENT OF WATER—REACH IV
ARKANSAS AND LOUISIANA

Subdivision of Reach IV and allocation of water therein. Reach IV of the Red River is divided into topographic subbasins, and the water therein allocated as follows:

Sec. 7.01. Subbasin 1—Intrastate streams—Arkansas.

(a) This subbasin includes those streams and their tributaries above last downstream major damsites originating in Arkansas and crossing the Arkansas-Louisiana state boundary before flowing into the Red River in Louisiana. Those major last downstream damsites are as follows:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Ouachita River	Lake Catherine	19,000	34°26.6'N	93°01.6'W
Caddo River	DeGray Lake	1,377,000	34°13.2'N	93°06.6'W
Little Missouri River	Lake Greeson	600,000	34°08.9'N	93°42.9'W
Alum Fork, S.-line River	Lake Winona	63,264	32°47.8'N	92°51.0'W

(b) Arkansas is apportioned the waters of this subbasin and shall have unrestricted use thereof.

Sec. 7.02. Subbasin 2—Interstate Streams—Arkansas and Louisiana.

(a) This subbasin shall consist of Reach IV less subbasin 1 as defined in Section 7.01(a) above.

(b) The State of Arkansas shall have free and unrestricted use of the water of this reach subject to the limitation that Arkansas shall allow a quantity of water equal to forty (40) percent of the weekly runoff originating below or flowing from the last downstream major damsite to flow into Louisiana. Where there are no designated last downstream damsites, Arkansas shall allow a quantity of water equal to forty (40) percent of the total weekly runoff originating above the state boundary to flow into Louisiana. Use of water in this subbasin is subject to low flow provisions of subparagraph 7.02(b).

Sec. 7.03. Special Provisions.

(a) Arkansas may use the beds and banks of segments of Reach IV for the purpose of conveying its share of water to designated downstream diversions.

(b) The State of Arkansas does not guarantee to maintain a minimum low flow for Louisiana in Reach IV. However, on the following streams when the use of water in Arkansas reduces the flow at the Arkansas-Louisiana state boundary to the following amounts:

(1) Ouachita—780 cfs

(2) Bayou Bartholomew—80 cfs

(3) Boeuf River—40 cfs

(4) Bayou Macon—40 cfs

the State of Arkansas pledges to take affirmative steps to regulate the diversions of runoff originating or flowing into Reach IV in

such a manner as to permit an equitable apportionment of the runoff as set out herein to flow into the State of Louisiana. In its control and regulation of the water of Reach IV any adjudication or order rendered by the State of Arkansas or any of its instrumentalities or agencies affecting the terms of this Compact shall not be effective against the State of Louisiana nor any of its citizens or inhabitants until approved by the Commission.

'ARTICLE VIII

'APPORTIONMENT OF WATER—REACH V

'Sec. 8.01. Reach V of the Red River consists of the mainstem Red River and all of its tributaries lying wholly within the State of Louisiana. The State of Louisiana shall have free and unrestricted use of the water of this subbasin.

'ARTICLE IX

'ADMINISTRATION OF THE COMPACT

'Sec. 9.01. There is hereby created an interstate administrative agency to be known as the "Red River Compact Commission," hereinafter called the "Commission." The Commission shall be composed of two representatives from each Signatory State who shall be designated or appointed in accordance with the laws of each state, and one Commissioner representing the United States, who shall be appointed by the President. The Federal Commissioner shall be the Chairman of the Commission but shall not have the right to vote. The failure of the President to appoint a Federal Commissioner will not prevent the operation or effect of this Compact, and the eight representatives from the Signatory States will elect a Chairman for the Commission.

'Sec. 9.02. The Commission shall meet and organize within 60 days after the effective date of this Compact. Thereafter, meetings shall be held at such times and places as the Commission shall decide.

'Sec. 9.03. Each of the two Commissioners from each state shall have one vote; provided, however, that if only one representative from a state attends he is authorized to vote on behalf of the absent Commissioner from that state. Representatives from three states shall constitute a quorum. Any action concerned with administration of this Compact or any action requiring compliance with specific terms of this Compact shall require six concurring votes. If a proposed action of the Commission affects existing water rights in a state, and that action is not expressly provided for in this Compact, eight concurring votes shall be required.

'Sec. 9.04.

'(a) The salaries and personal expenses of each state's representative shall be paid by the government that it represents, and the salaries and personal expenses of the Federal Commissioner will be paid for by the United States.

'(b) The Commission's expenses for any additional stream flow gaging stations shall be equitably apportioned among the states involved in the reach in which the stream flow gaging stations are located.

'(c) All other expenses incurred by the Commission shall be borne equally by the Signatory States and shall be paid by the Commission out of the "Red River Compact Commission Fund." Such Fund shall be initiated and maintained by equal payments of

each state into the fund. Disbursement shall be made from the fund in such manner as may be authorized by the Commission. Such fund shall not be subject to audit and accounting procedures of the state; however, all receipts and disbursements of the fund by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audits shall be included in and become a part of the annual report of the Commission. Each state shall have the right to make its own audit of the accounts of the Commission at any reasonable time.

ARTICLE X

POWERS AND DUTIES OF THE COMMISSION

Sec. 10.01. The Commission shall have the power to:

- '(a) Adopt rules and regulations governing its operation and enforcement of the terms of the Compact;
- '(b) Establish and maintain an office for the conduct of its affairs and, if desirable, from time to time, change its location;
- '(c) Employ or contract with such engineering, legal, clerical and other personnel as it may determine necessary for the exercise of its functions under this Compact without regard to the Civil Service Laws of any Signatory State; provided that such employees shall be paid by and be responsible to the Commission and shall not be considered employees of any Signatory State.
- '(d) Acquire, use and dispose of such real and personal property as it may consider necessary;
- '(e) Enter into contracts with appropriate State or Federal agencies for the collection, correlation and presentation of factual data, for the maintenance of records and for the preparation of reports;
- '(f) Secure from the head of any department or agency of the Federal or State government such information as it may need or deem to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed; provided such information is not privileged and the department or agency is not precluded by law from releasing same;
- '(g) Make findings, recommendations or reports in connection with carrying out the purposes of this Compact, including, but not limited to, a finding that a Signatory State is or is not in violation of any of the provisions of this Compact. The Commission is authorized to make such investigations and studies, and to hold such hearings as it may deem necessary for said purposes. It is authorized to make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of any Signatory State, or the United States, as may have any interest in or jurisdiction over the subject matter. The making of findings, recommendations, or reports by the Commission shall not be a condition precedent to the instituting or maintaining of any action or proceeding of any kind by a Signatory State in any court or tribunal, or before any agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions; and

'(h) Print or otherwise reproduce and distribute its proceedings and reports.

'Sec. 10.02. The Commission shall:

- '(a) Cause to be established, maintained, and operated such stream, reservoir and other gaging stations as are necessary for the proper administration of the Compact;
- '(b) Cause to be collected, analyzed and reported such information on stream flows, water quality, water storage and such other data as are necessary for the proper administration of the Compact;
- '(c) Perform all other functions required of it by the Compact and do all things necessary, proper and convenient in the performance of its duties thereunder;
- '(d) Prepare and submit to the governor of each of the Signatory States a budget covering the anticipated expenses of the Commission for the following fiscal biennium;
- '(e) Prepare and submit an annual report to the governor of each Signatory State and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;
- '(f) Make available to the governor or to any official agency of a Signatory State or to any authorized representative of the United States, upon request, any information within its possession;
- '(g) Not incur any obligation in excess of the unencumbered balance of its funds, nor pledge the credit of any of the Signatory States; and
- '(h) Make available to a Signatory State or the United States in any action arising under this Compact, without subpoena, the testimony of any officer or employee of the Commission having knowledge of any relevant facts.

'ARTICLE XI

'POLLUTION

'Sec. 11.01. The Signatory States recognize that the increase in population and the growth of industrial, agricultural, mining and other activities combined with natural pollution sources may lead to a diminution of the quality of water in the Red River Basin which may render the water harmful or injurious to the health and welfare of the people and impair the usefulness or public enjoyment of the water for beneficial purposes, thereby resulting in adverse social, economic, and environmental impacts.

'Sec. 11.02. Although affirming the primary duty and responsibility of each Signatory State to take appropriate action under its own laws to prevent, diminish, and regulate all pollution sources within its boundaries which adversely affect the water of the Red River Basin, the states recognize that the control and abatement of the naturally-occurring salinity sources as well as, under certain circumstances, the maintenance and enhancement of the quality of water in the Red River Basin may require the cooperative action of all states.

'Sec. 11.03. The Signatory States agree to cooperate with agencies of the United States to devise and effectuate means of alleviating the natural deterioration of the water of the Red River Basin.

'Sec. 11.04. The Commission shall have the power to cooperate with the United States, the Signatory States and other entities in programs for abating and controlling pollution and natural deterioration of the water of the Red River Basin, and to recommend reasonable water quality objectives to the states.

'Sec. 11.05. Each Signatory State agrees to maintain current records of waste discharges into the Red River Basin and the type and quality of such discharges, which records shall be furnished to the Commission upon request.

'Sec. 11.06. Upon receipt of a complaint from the governor of a Signatory State that the interstate water of the Red River Basin in which it has an interest are being materially and adversely affected by pollution and that the state in which the pollution originates has failed after reasonable notice to take appropriate abatement measures, the Commission shall make such findings as are appropriate and thereafter provide such findings to the governor of the state in which such pollution originates and request appropriate corrective action. The Commission, however, shall not take any action with respect to pollution which adversely affects only the state in which such pollution originates.

'Sec. 11.07. In addition to its other powers set forth under this Article, the Commission shall have the authority, upon receipt of six concurring votes, to utilize applicable Federal statutes to institute legal action in its own name against the person or entity responsible for interstate pollution problems; provided, however, sixty (60) days before initiating legal action the Commission shall notify the Governor of the state in which the pollution source is located to allow that state an opportunity to initiate action in its own name.

'Sec. 11.08. Without prejudice to any other remedy available to the Commission, or any Signatory State, any state which is materially and adversely affected by the pollution of the water of the Red River Basin by pollution originating in another Signatory State may institute a suit against any individual, corporation, partnership, or association, or against any Signatory State or political or governmental subdivision thereof, or against any officer, agency, department, bureau, district or instrumentality of or in any Signatory State contributing to such pollution in accordance with applicable Federal statutes. Nothing herein shall be construed as depriving any persons of any rights of action relating to pollution which such person would have if this Compact had not been made.

'ARTICLE XII

'TERMINATION AND AMENDMENT OF COMPACT

'Sec. 12.01. This Compact may be terminated at any time by appropriate action of the legislatures of all of the four Signatory States. In the event of such termination, all rights established under it shall continue unimpaired.

'Sec. 12.02. This Compact may be amended at any time by appropriate action of the legislatures of all Signatory States that are affected by such amendment. The consent of the United States Congress must be obtained before any such amendment is effective.

ARTICLE XIII

RATIFICATION AND EFFECTIVE DATE OF COMPACT

Sec. 13.01. Notice of ratification of this Compact by the legislature of each Signatory State shall be given by the governor thereof to the governors of each of the other Signatory States and to the President of the United States. The President is hereby requested to give notice to the governors of each of the Signatory States of the consent to this Compact by the Congress of the United States.

Sec. 13.02. This Compact shall become effective, binding and obligatory when, and only when:

(a) It has been duly ratified by each of the Signatory States; and

(b) It has been consented to by an Act of the Congress of the United States, which Act provides that:

Any other statute of the United States to the contrary notwithstanding, in any case or controversy:

which involves the construction or application of this Compact;

in which one or more of the Signatory States to this Compact is a plaintiff or plaintiffs;

and

which is within the judicial power of the United States as set forth in the Constitution of the United States;

and without any requirement, limitation or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy:

The consent of Congress is given to name and join the United States as a party defendant or otherwise in any such case or controversy in the Supreme Court of the United States if the United States is an indispensable party thereto.

Sec. 13.03. The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or state court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Signatory States; and that the venue of such case or controversy may be brought in any judicial district in which the acts complained of (or any portion thereof) occur.

SIGNED AND APPROVED on the 12th day of May 1978 at Denison Dam.

John P. Saxton

John P. Saxton, Commissioner
State of Arkansas

Orville B. Saunders

Orville B. Saunders, Commissioner
State of Oklahoma

Arthur R. Theis

Arthur R. Theis, Commissioner
State of Louisiana

Fred Parkey

Fred Parkey, Commissioner
State of Texas

R. C. Marshall

R. C. MARSHALL, Major General
Representative
United States of America "

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 22, 1979: Yeas 29, Nays 0; passed the

House on May 10, 1979: Yeas 132, Nays 4, one present not voting.

Approved May 24, 1979.

Effective May 24, 1979.

INSURANCE—EXAMINATION OF COMPANIES—EXPENSES

CHAPTER 262

S. B. No. 619

An Act relating to the expenses of examinations conducted by the State Board of Insurance; relating to the appropriate designation of the names of the State Board of Insurance and the Commissioner of Insurance; amending Article 1.16, Insurance Code, as amended.

Be it enacted by the Legislature of the State of Texas:

Section 1. Article 1.16, Insurance Code, as amended, is amended¹⁶ to read as follows:

"Art. 1.16. Expenses of Examinations; Disposition of Sums Collected

"The expenses of all examinations of domestic insurance companies made on behalf of the State of Texas by the State Board of Insurance or under its authority shall be paid by the corporations examined in such amount as the Commissioner of Insurance shall certify to be just and reasonable.

"Assessments for the expenses of such domestic examination which shall be sufficient to meet all the expenses and disbursements necessary to comply with the provisions of the laws of Texas relating to the examination of insurance companies and to comply with the provisions of this Article and Articles 1.17 and 1.18 of this Code, shall be made by the Commissioner of Insurance upon the corporations or associations to be examined taking into consideration annual premium receipts, and/or admitted assets and/or insurance in force; provided such assessments shall be made and collected as follows: (1) expenses attributable directly to a specific examination including employees' salaries and expenses shall be collected at the time of examination; (2) assessments calculated annually for each corporation or association which take into consideration annual premium receipts and/or admitted assets and/or insurance in force shall be assessed for periods not previously assessed through December 31, 1978; thereafter each such corporation or association shall be assessed annually. Provided further that the amount of all such assessments paid in each taxable year to or for the use of the State of Texas by any insurance corporation or association hereby affected shall be allowed as a credit on the amount of premium taxes to

¹⁶ V.A.T.S. Insurance Code, art. 1.16.